



STATE OF ARKANSAS
**Department of Finance
and Administration**

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December 04, 2007

Duane Dutka
P.O. Box 245
Piggot, AR 72454

Re: Advisory Opinion # 483-07-11

Dear Mr. Dutka:

This letter is in response to your request for an advisory opinion in accordance with A.C.A. § 19-11-715(b). Your request for an advisory opinion is based on the following facts:

1. You are the County Administrator for the Arkansas Department of Human Services in Clay County.
2. You are going to purchase commercial property, a portion of which is subject to an existing rental contract with the University of Arkansas Cooperative Extension Service.
3. The realty company that you are using is owned by a state representative and his wife who will be receiving a commission from the sale.
4. You are requesting an opinion as to whether a conflict of interest or violation of ethics will occur considering the facts presented.

A.C.A. § 19-11-705 addresses "Employee conflict of interest" and states that it is a breach of ethical standards for any employee to participate directly or indirectly in any matter pertaining to any contract or subcontract for which the employee or a member of his immediate family has a financial interest. "Direct or indirect participation" includes "involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity." Assuming that you did not participate either directly or indirectly in the contract at issue here, i.e., in the procurement of the lease, a conflict of interest is not presented.

Governor's Executive Order E 98-04 requires that state employees and their immediate family members, including their spouse, who desire to "enter into, extend, amend, or renew a contract, lease or purchase agreement" with a state agency to disclose whether they hold any position of control or ownership interest of 10% or greater when the consideration for the contract exceeds \$25,000. Therefore, if the amount of consideration that you will be receiving pursuant to the contract with the University of Arkansas Cooperative Extension Service will be in excess of \$25,000 you are required to disclose this information to the University of Arkansas Cooperative Extension Service. This can be done by obtaining a "Contract and Grant Disclosure Form" from the state agency.

This advisory opinion is issued in accordance with A.C.A. § 19-11-715(b). Compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Act and of Governor's Executive Order 98-04.

Sincerely,

Richard A. Weiss

CC:
Joe Giddis, OSP